Senate
(Office of the Secretary)

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SENATE

S.B. No. 177

Introduced by HON. RAMON BONG REVILLA, JR.

EXPLANATORY NOTE

Suffrage is defined as the right to vote in the election of officers chosen by the people and in the determination of questions submitted to the people. Include within its scope are election, plebiscite, initiative and referendum. In elections, people choose their officials for a definite and fixed period as to whom they entrust the exercise of the powers of government.

It is a constitutional mandate on Congress to provide a system for securing the secrecy and sanctity of the ballots. The paramount consideration in drafting election-related bills is to ensure that the legislature respects and preserves the will of the electorate.

Section 44 of the Local Government Code provides for guidelines on permanent vacancies in the office of the Governor, Vice-Governor, Mayor, and Vice Mayor. With respect to succession, there is no problem if the local government unit concerned is just a single district because subsequent vacancies shall be filled automatically by the other sanggunian members according to their ranking. The controversy arises if there are two or more districts. Applying the formula in Section 44 of the Local Government Code, the ranking in the Sanggunian shall be determined on the basis of the proportion of the votes obtained by each winning candidate to the total registered voters. The said section was applied and illustrated in the case of Victoria vs. Comelec (G.R. 109005 January 10, 1994):

In the May 11, 1992 elections, the following candidates from the first, second and third districts of the Province of Albay were elected & proclaimed, to wit:

NAME	Registered Voters	Votes Garnered	Actually Voted	Rank	Ranking using the formula in Sec. 44
First District	130,085				
1. Jesus James Calisin		28,335	107,216	2nd	28,335/130,085 = 21.78% (1st)
2. Vicente Go., Sr.		17,937			
3. Clenio Cabredo		16,705			
Second District	155,318				
1. Juan D. Victoria		32,918	121,423	1st	32,918/155,318 = 21.19% (2nd)
2. Jesus Marcellana		26,030		3rd	26,030/155,318 = 16.76% (3rd)
3. Lorenzo Reyeg		23,887			
Third District					
1. Ramon Fernandez, Jr.		19,315			
2. Masikap Fontanilla		19,241			
3. Arturo Osla		17,778			
4. Nemesio Baclao		17,545			

The illustration above showed that while Victoria earned the highest votes, however after applying the said formula as reflected in the last column of the table, it showed that Calisin was the highest ranking member of the Sangguniang Panlalawigan of Albay. In such a case, the Supreme Court has no recourse but to merely apply the law.

For this purpose, this bill seeks to rectify the injustice committed against the electorate and to give recognition to the true will of the people as to whom they entrust the exercise of the powers of government.

Hence, passage of this bill is earnestly sought.

RAMON BONG REVILLA, JR.

Sixteenth Congress of the   )
Republic of the Philippines   )
First Regular Session   )

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SENATE

S.B. No. 177

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Introduced by HON. RAMON BONG REVILLA, JR.

AN ACT AMENDING SECTION 44 OF REPUBLIC ACT NO. 7160, OTHERWISE
KNOWN AS THE LOCAL GOVERNMENT CODE OF 1991

*Be it enacted by the Senate and House of Representatives of the Philippines in Congress
assembled:*

SEC. 1. Section 44 of Republic Act No. 7160, otherwise known as the Local Government Code
of 1991 is hereby amended as follows:

"Section 44. Permanent Vacancies in the offices of the Governor, Vice-
Governor, Mayor and Vice-Mayor - If a permanent vacancy
occurs in the office of the governor or mayor, the vice-governor or
vice-mayor concerned shall become the governor or mayor. If a
permanent vacancy occurs in the offices of the governor, vice-
governor, mayor, or vice-mayor, the highest ranking sanggunian
member or, in case of his permanent inability, the second highest
ranking sanggunian member, shall become the governor, vice-
governor, mayor or vice-mayor, as the case may be. Subsequent
vacancies in the said office shall be filled automatically by the
other sanggunian members according to their ranking as defined
herein.

(b) If a permanent vacancy occurs in the office of the punong
barangay, the highest ranking sanggunian barangay member or, in
case of his permanent inability, the second highest ranking
sanggunian member, shall become the punong barangay.

(c) A tie between or among the highest ranking sanggunian
members shall be resolved by the drawing of lots.

(d) The successors as defined herein shall serve only the unexpired
terms of their predecessors.

For purposes of this Chapter, a permanent vacancy arises when an
elective local official fills a higher vacant office, refuses to assume
office, fails to qualify, dies, is removed from office, voluntarily
resigns, or is otherwise permanently incapacitated to discharge the
functions of his office.

For purposes of succession as provided in this Chapter, ranking in
the sanggunian shall be determined on the basis of the proportion
of votes obtained by each winning candidate to the total number of

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[registered voters] **THOSE WHO ACTUALLY VOTED** in each district in the immediately preceding local election.

SEC. 2. *Separability Clause* – If for any reason any section or provision of this Act is declared unconstitutional, other provisions hereof which are not effected thereby shall continue to be in full force and effect.

SEC. 3. *Repealing Clause.* – Any laws, decrees, or rules and regulations which are inconsistent with or contrary to the provisions of this Act are hereby amended or repealed.

SEC. 4. *Effectivity Clause.* – This Act shall take effect upon its publication in at least two (2) national newspapers of general circulation.

Approved,